IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Crl.MC.No. 2529 of 2007()

AGAINST THE ORDER DATED 03/05/2007 IN CMP 2429/2007 IN CC.364/2002 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

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PETITIONER/COMPLAINANT:

SHIFA HIRE PURCHASE LTD.,
PUTHIYAKAVU, MAVELIKKARA,
REPRESENTED BY
RECOVERY OFFICER B.SURESHKUMAR,
BALAKRISHNAN SADANAM,
KOTTAKKAKAM MURI, MAVELIKKARA VILLAGE.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SMT.KAVITHA GANGADHARAN

RESPONDENT/STATE AND ACCUSED:

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1. STATE OF KERALA REPRESENTED
BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

2. MADHUSOODHANA KURUP,
RAMCO AGENCIES, MAVELIKKARA

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2529 of 2007

Dated this the 7th day of August 2007

O R D E R

The petitioner is the complainant in a prosecution under Section 138 of the Negotiable Instruments Act. At the fag end of the trial - it is submitted that even after the defence evidence of the case was closed, the accused filed an application for forwarding the cheque to the handwriting expert for examination and report as to whether the handwriting and signature in the cheque are that of the accused. The learned Magistrate, by Annexure III order allowed the said request. In coming to this conclusion, the learned Magistrate further observed that the accused has a definite contention from the very beginning of the case that the cheque was a forged one and a blank signed cheque which was given by him as security and the complainant has manipulated the same.

2. The petitioner claims to be aggrieved by the said order. He has come to this court with a prayer to invoke the extraordinary inherent jurisdiction available to this court under Section 482 Cr.P.C.

3. What is the ground? The law does not encourage challenge against interlocutory orders during the pendency of the proceedings. This policy of the law is clearly reflected in Section 397 (2) Cr.P.C which proscribes revisional challenge against interlocutory orders. Under Section 482 Cr.P.C, the crucial question is whether there has been failure or miscarriage of justice or there is any abuse

of the process of the court. In the light of the very specific and definite contention raised by the accused, as revealed in the impugned order that the cheque was a signed blank cheque manipulated and made use of by the complainant it cannot at all be held that the direction to send the cheque to the expert results in any failure or miscarriage of justice. I am, in these circumstances, satisfied that the challenge by the complainant/petitioner herein by invoking the jurisdiction under Section 482 Cr.P.C is not justified.

4. The learned counsel for the petitioner has a grievance that the proceedings were initiated as early as in 2002 and that the accused has resorted to this course only to delay and protract the proceedings. I am satisfied that a direction deserves to be issued to the learned Magistrate to ensure that the case is disposed of as expeditiously as possible. Every endeavour must be made to get the report of the expert expeditiously also.

5. With the above observation, this petition is dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007